

**THE LAW OFFICES OF LINDA M. TIRELLI, ESQ.,  
AND WESTCHESTER LEGAL CREDIT SOLUTIONS, INC.**

**202 MAMARONECK AVENUE, 3<sup>RD</sup> FLOOR • WHITE PLAINS, NY 10601  
PHONE (914)946-0860 • FAX (914)946-0870 • EMAIL WESTCHESTERLEGAL@AOL.COM**

Linda M. Tirelli\*

\* Admitted CT and SDNY

Connecticut Office  
1100 Summer Street, 3<sup>rd</sup> Fl  
Stamford, CT 06905  
(203)653-2203

**CONTRACT FOR CHAPTER 7 BANKRUPTCY SERVICES**

This Agreement is executed this the 25<sup>th</sup> day of February, 2009,  
by and between The Law Offices of Linda M. Tirelli, Esq. (the Attorney) and  
Sylvia N. Nuer (the Debtor, whether one or more parties).

This agreement is made in response to Attorney's withdrawal as Appointed Special Counsel  
for the Estate.

The parties agree as follows:

**1. Type of Bankruptcy.**

Debtor retained attorney to file a Chapter 7 bankruptcy case which was in fact filed  
in the US Bankruptcy Court, SDNY and bears case # 08-14106. If the Debtor determines at  
a later date that the Debtor desires convert this case and file a Chapter 13 bankruptcy case,  
the parties shall execute a new fee contract setting forth the terms of such representation.

**2. Base Attorney Fees.**

The base attorney fee for filing the Chapter 7 bankruptcy case is \$ 600.00, which has  
been paid in full by the Debtor prior to filing said Chapter 7 Petition.

The base fee of \$600 is based on the following assumptions:

- (a) The Debtor has provided the Attorney with complete and accurate  
Information.
- (b) The Debtor's circumstances, particularly the Debtor's Current Monthly Income  
as defined by the Bankruptcy Code, does not substantially change prior to the  
actual filing of the Chapter 7 Bankruptcy case.
- (c) The Debtor must pay the fee in part upon the execution of this Agreement  
and in full before the filing of your case.

If any of these assumptions prove to be inaccurate, and as a result the amount of  
legal services provided by the Attorney is increased, then the base attorney fee shall be  
increased accordingly and to compensate the Attorney for the additional time and services  
in providing the legal services. At such time, the parties must execute a supplement to this  
Agreement.

S/N  
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designated as a Federal Debt Relief Agency by an Act of Congress and the President of the  
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If the Debtor refuses to sign such a supplement, then the Attorney-Debtor relationship shall be terminated and no Chapter 7 bankruptcy Case will be filed for Debtor by the Attorney.

**3. Refund of Percentage of Base Fee.**

In the event the legal services provided for herein are terminated by either party prior to the filing of a Chapter 7 bankruptcy case, then the Debtor may be entitled to a refund of some of the base fee. The refund shall be determined by the number of hours devoted by Attorney to the case prior to the time of termination computed at the rate of \$450.00 per hour; by the time devoted to the case by the Legal Assistants of Attorney computed at the rate of \$125.00 per hour; by adding all expenses incurred (such as copies, postage, securing records and documents, tax transcripts, credit reports, etc); and then by deducting the total amount of all charges from the Base Fee. If the event the total of all such fees and charges exceed the Base Fee, the Debtor's liability shall be limited to the amount of the Base Fee.

**4. Debtor's Obligations to Pay Designated Costs.**

The Debtor shall be obligated to pay the following costs related to the filing of a Chapter 7 bankruptcy case. The costs are as follows:

- (a) The fee of \$299.00 charged by the Bankruptcy Court to file a Chapter 7 bankruptcy case.
- (b) The cost of pre-filing consumer credit counseling, which is a prerequisite to filing for bankruptcy relief, which is approximately \$50.00 for an individual and approximately \$100.00 for a husband and wife filing jointly.
- (c) The cost of a post-filing instructional course concerning personal financial management, which is a prerequisite to obtaining the Discharge of debts in a Chapter 7 case. The amount of this fee is approximately \$100.00 for an individual and approximately \$200.00 for a man and wife filing jointly.
- (d) The cost of obtaining any consumer credit reports.
- (e) The cost of obtaining tax returns or tax transcripts directly from the taxing authorities or from any third-party provider if not produced by the debtor.
- (f) The cost of obtaining copies of judgments, deeds, deeds of trust, title certificates, court papers, county tax records, and other similar documents.
- (g) The cost of securing any prior court records from the PACER system for federal cases.
- (h) The cost of securing any other records or statements not otherwise produced by or available to the Debtor.

  
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**5. Services provided Under the Attorney's Base Fee.**



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The services of the attorney included in the base fee are those normally contemplated for a Chapter 7 case. They include the services listed below:

- (a) All services reasonably necessary to fully inform the Debtor of the Debtor's rights and responsibilities under the Bankruptcy Laws.
- (b) All services reasonably necessary to enable the Debtor to make an informed decision about the filing of a Chapter 7 bankruptcy case.
- (c) Advising the Debtor of all available exemptions under any applicable law and assisting the Debtor in claiming the exemptions that best serve the Debtor's needs and desires.
- (d) Assisting the Debtor in complying with all of the requirements imposed by the Bankruptcy Laws, the Bankruptcy Rules, or any Local Bankruptcy Rules.
- (e) Preparation and electronic filing of petition, schedules, supplemental local forms, and mailing matrix.
- (f) Drafting and mailing notice to creditors advising of filing of case.
- (g) Drafting and mailing to you a letter regarding your attendance at the Section 341 meeting of creditors and your other responsibilities.
- (h) Preparation for and attendance at Section 341 meeting.
- (i) Filing of any motions to avoid non-purchase money liens on exempt household goods and judgment liens that impair exempt property.
- (j) Assisting the Debtor in carrying out the Debtor's Statement of Intentions, provided that the Debtor pays the Non-Base Fee for any redemptions.
- (k) Assisting the Debtor in complying with all proper and timely requests for information and/or documents by the Bankruptcy Trustee, the Bankruptcy Administrator, the Court, or other parties involved in the case.
- (l) Communicating as necessary with the creditors and other parties involved in the case (including their attorneys) to facilitate the administration of the case and the application of the Automatic Stay.

**6. Additional or Non-Base Legal Services.**

In some Chapter 7 cases, the legal services which are beyond those contemplated in the base fee must nonetheless be provided by the Attorney. These legal services are listed below:

- (a) Representing the Debtor in any dischargeability proceeding, including student loan discharge proceedings.



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- (b) Representing the Debtor in any contested motion to avoid any type of a lien or judgment.
- (c) Representing the Debtor in a motion to continue the Automatic Stay.
- (d) Representing the Debtor in any contested matters or adversary proceedings related to the enforcement of the Automatic Stay by a creditor.
- (e) Representing the Debtor in any action to enforce the Discharge injunction or enforce the Automatic Stay.
- (f) Representing the Debtor in any motions related to the enforcement of Sections 707(a) or 707(b) of the Bankruptcy Code, except as provided in the Special Circumstance Addendum.
- (g) Representation the Debtor in any contested motions for relief from the Automatic Stay.
- (h) Representing the Debtor in any motions to redeem exempt personal property.
- (i) Representing the Debtor in any contested matter regarding the Debtor's claim of exempt property.
- (j) Filing any amendments to the Schedules, unless the amendment arises out of a mistake by the Attorney.
- (k) Filing a motion to continue the 341 meeting of creditors at the request of the Debtor.
- (l) Filing of motions to abandon property.
- (m) Representing the Debtor in any other matters not specifically designated as a Base Fee Service in this Agreement.
- (n) Representing the Debtor in any and all additional adversary proceedings and/or other contested matters, including but not limited to, matters related to pre-petition claims.

**7. Compensation for Non-Base Legal Services.**

For such non-base services, you may be charged without any further notice and in the discretion of the Court non-base fees for the following services and in the amounts noted:

(a)	Amendments to Schedules & Court Fee	\$126.00
(b)	Motion to continue the 341 meeting	\$100.00
(c)	Defending a motion for relief from stay	\$450.00
(d)	Motion for Redemption	\$350.00
(e)	Motion to continue the Automatic Stay	\$450.00
(f)	Motion to Avoid a Lien or Judgment	\$350.00



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- (g) With respect to all other matters, other than the contingent fee cases described below, the Attorney will keep time and expense records for any non-base service and apply to the Court for the approval of the fee plus all expenses incurred. The current hourly fee for your Attorney is \$450.00 and the current hourly fee for her Legal Assistant is \$150.00.
- (h) The attorney will be entitled to a contingency fee equal to 33.33% (One-Third) of any actual recovery from any party for any matter pursued on behalf of the client including all pre-petition claims, violations of the automatic stay or any claims made in connection with any part of your bankruptcy case, the discharge injunction, or for breach of any state or federal consumer protection statutes.

**8. Expenses.**

The Attorney shall be entitled to apply to the Court for approval of any expenses related to your case for base fee or non-base fee services. Such expenses include but are not limited to court fees, telephone fees, fax fees, copy fees, postage fees, PACER fees, electronic or other research fees. In the Court's discretion, the Attorney may request without any notice or documentation a blanket expense of \$1.00 for each item noticed to creditors as an expense for postage, copying and envelopes.

**9. Payment of Base and Non-Base Fees.**

- (a) The Base Fee shall be paid in full prior to the time the Attorney begins any actual work on the Chapter 7 Petition and Schedules.
- (b) All fixed Non-Base fees must be paid in Advance of the Service by the Debtor.
- (c) Fees for services based on time and expenses shall be paid within 30 days of the Debtor's receipt of the bill for such services; provided, however, that the Attorney may require the payment of a retainer fee for non-base services that are expected to require more than 2 hours of the Attorney's time.
- (d) The Debtor understands that if the Debtor does not pay the non-base fees as provided in this Agreement then the Attorney has no obligation to provide the non-base services and has the right to file a motion to withdraw as the attorney for the debtor in the Chapter 7 case, the contested case, or the adversary proceeding.

  
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- (e) Debtor hereby further agrees to pay any and all non-base fees and contingency fees from any recovery which is to be distributed by the assigned Chapter 7 Trustee and as the Court otherwise permits.

**10. Means Test Services.**

With respect to the "means test" provisions imposed by Section 707(b) of the Bankruptcy Code, the base fee charged in this case is based on one of the four assumptions set forth below. The assumption that applies is designated by the assumption that applies is designated by the initials of the Debtor placed after the Assumption.

- (a) The Debtor's debts are not primarily consumer debts and therefore the "means test" does not apply. The parties assume that no issues concerning the "means test" will arise in this case.
- (b) The Debtor's current monthly income as defined by the Bankruptcy Code is below the median income. The parties assume that no issues concerning the "means test" will arise in this case.
- (c) The Debtor's current monthly income as defined by the Bankruptcy Code is above the median income but the Debtor's expenses, as calculated under Section 707(b)(2)(A) are sufficient to rebut the presumption that the filing of a Chapter 7 case would be an abuse of the Bankruptcy laws. The parties assume that no issues concerning the "means test" will arise in this case.
- (d) A presumption of Bankruptcy abuse does arise in this case, but the Debtor and the Attorney will attempt to rebut the presumption by demonstrating extraordinary circumstances pursuant to Section 707(b)(2)(B) of the Bankruptcy Code. Attached to this Agreement is an Addendum setting forth an explanation of the Debtor's obligations in demonstrating extraordinary circumstances and the details of the parties' Agreement concerning fees for proceedings related to the establishment of extraordinary circumstances.

**11. Debtor's Obligations.**

The Debtor's obligations are as follows:

- (a) To promptly pay all Base and Non-Base Legal fees and charges.
- (b) To provide the Attorney with all requested documents, bills statements, payment advices, bank records, tax returns, tax bills, appraisals, retirement and savings account, and income information and to sign any and all necessary forms to allow the Attorney to secure such documentation.

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- (c) To provide accurately and honestly all of the information necessary to prepare and file the Chapter 7 bankruptcy case, and other motions or proceedings arising during the course of the case.
- (d) To timely respond to all letters, emails and telephone calls from the Attorney or any member of his staff.
- (e) To keep the Attorney advised at all times of the Debtor's mailing and physical addresses, telephone numbers, and email addresses.
- (f) To appear at the first meeting of creditors (the 341 meeting) and at any other court hearings or meetings as may be required by the Court or any other party.
- (g) To keep all scheduled office appointments with the Attorney and to notify the Attorney in advance of any problems with the timing and scheduling or rescheduling of such appointments.
- (h) To contact the attorney by Telephone with the understanding that the Attorney is only able to return calls between the hours of 8:00 a.m. to 9:30 a.m. and 4:00 p.m. to 6:00 p.m. If the Attorney is available when the call is actually received, then the call will be taken at that time. However, if you have to leave a message for the Attorney then you must provide a number that you can be reached at during the designated times. The Attorney or Legal Assistant will make every effort to return all such telephone calls within 48 hours, excluding weekends and holidays.
- (i) To provide any information requested of the Debtor by the Chapter 7 Trustee, the Bankruptcy Administrator, or any other party in the case, unless the Court rules that the Debtor is not required to provide such information.
- (j) To respond as soon as possible to any requests for the Debtor by the Attorney or his Legal Assistant.
- (k) To comply with the obligations imposed upon the Debtor by the Local Rules of the Bankruptcy Court for the Western District of North Carolina, a copy of which is attached to this Agreement.
- (l) To sign a tax authorization form to authorize the Attorney to get copies of income tax returns from the respective taxing agencies for a period of four (4) years prior to the filing of your bankruptcy case.
- (m) To provide current bank account information to include monthly statements as requested and online account balances as of the date of the signing of your bankruptcy petition packet.

  
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**12. Attorney Withdrawal from Chapter 7 case, Adversary Proceeding or Contested Matter.**

Pursuant to the Local Rules of the Bankruptcy Court, the Attorney shall remain the responsible attorney of record for the Debtor in all matters in the case until the case is closed, dismissed or the discharge is entered or until the Attorney is relieved from such representation by order of the Court. The parties agree that just reasons for the Attorney to withdraw from the representation of the Debtor, include but are not limited to the following:

- (a) The failure of the Debtor to provide complete, truthful and accurate information to the Attorney.
- (b) The failure of the Debtor to comply with the Debtor's obligations as provided for in this Agreement and in the Local Rules.
- (c) The failure of the Debtor to comply with any of the obligations imposed on the Debtor by the Bankruptcy Code and the Bankruptcy Rules.
- (d) The failure or refusal of the Debtor to comply with the Debtor's obligations to provide any supplemental information to the Court or to the Chapter 7 Trustee or to correct any incorrect or incomplete information previously provided to the Court or the Trustee.
- (d) The failure of the Debtor to provide complete, truthful and accurate information to the Court, the Chapter 13 Trustee and the Bankruptcy Administrator.
- (e) The failure of the Debtor to pay for all Non-Base fee services.
- (f) If the Debtor are husband and wife, then any separation, serious domestic dispute, or divorce of the parties.
- (g) Any irreconcilable conflict between the Attorney and the Debtor with respect to the case.

Dated: 2/27/09

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: [Signature]  
Law Offices of Linda M. Tirelli, Esq.

Debtor: Sylvia N. Nuer

Debtor: \_\_\_\_\_

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**CONTINGENT FEE SUPPLEMENT  
And  
CONSUMER'S BILL OF RIGHTS FOR CONTINGENCY FEES**

The debtor or debtors and Linda M. Tirelli and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc. hereby agree that any recovery in any adversary proceeding or contested case that is the subject of a contingency fee shall be resolved as follows:

1. All costs, legal fees and damages shall be added together to reach a total settlement amount;
2. The total settlement amount shall then be divided and allocated between the parties as follows:
  - a. The debtor, Sylvia Nuer, shall retain 66.66% of the total settlement amount; and
  - b. Linda M. Tirelli, Esq. and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc. shall receive 33.33% of the total settlement amount.
3. In addition to the allocation of the total settlement amount as described in paragraph 2, all litigation and other related expenses shall then be deducted from the total settlement amount assigned to the debtor, Sylvia N. Nuer and paid to Linda M. Tirelli, Esq. and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc.;
4. However, the debtor, Sylvia Nuer, shall not be liable for any litigation and other related expenses incurred in the adversary proceeding or the contested case if there is no recovery unless such litigation and other related expenses are specifically approved in advance in a written document signed by the debtor or debtors;
5. The total settlement amount shall be computed without any deduction for the litigation and other related expenses;
6. Upon conclusion of the matter, Linda M. Tirelli, Esq. and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc. shall provide the debtor, Sylvia Nuer, with a written statement stating the outcome of the matter and if there is a recovery showing the remittance to the client and the method of its determination consistent herewith; and,
7. Linda M. Tirelli, Esq. and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc. are granted a lien on the gross recovery for the amount of the contingent fee as fixed by the agreement herein. The said lien shall secure property that is deemed to be the sole property of Linda M. Tirelli, Esq. and the Law Office of Linda M. Tirelli and Westchester Legal Credit Solutions, Inc.; and not property of the debtor or of the debtor's estate in bankruptcy.



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**The Consumers' Bill of Rights for Contingency Fees**

Before you, the prospective client, arrange a contingent fee agreement with the Law Offices of Linda M. Tirelli, Esq., you should understand this statement of your rights as a client.

1. There is no legal requirement that a lawyer charge a client a set fee or a percentage of money recovered in a case. You, the client, have the right to talk with your lawyer about the proposed fee and to bargain about the rate or percentage as in any other contract. If you do not reach an agreement, you may talk with other lawyers. Any contingent fee contract must be in writing.
2. The percentage fee that will be charged in your case by the Law Offices of Linda M. Tirelli, Esq., is 33.33% of the total recovery by settlement, judgment or otherwise. You will not be obligated to pay any fees to the Law Offices of Linda M. Tirelli, Esq., in the event of no recovery. The lawyer will not deduct his/her out-of-pocket expense in your case before applying the percentage to the recovery. For example, if the case is settled for \$3,000.00 and the lawyer has advanced \$500.00 in expenses, then the contingency will be applied to the full \$3,000.00 and you will pay the lawyer her expenses out of your part of the total settlement. In this example, the client would receive \$1500.00. Your lawyer must charge you a reasonable fee. The percentage fee charged to *you* should reflect the likelihood of winning, how much money is likely to be rewarded and collected, and how much work and expense the lawyer is likely to put into the case. Your lawyer's expertise and the complexity of the case are also relevant.
3. Your lawyer should take all the following factors into account in evaluating your case and should discuss each factor with you, giving his or her best good faith evaluation:

- The likelihood of success
- The likely amount of recovery, if the case succeeds



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- The possibility of an award of punitive damages — damages awarded because the injury was so avoidable or despicable — or damages that are multiplied by state statute, and how that will affect the fee
- The attitude and prior practices of the other side with respect to settlement
- The likelihood of collecting any judgment
- The availability of alternative dispute resolution
- The amount of time that a lawyer is likely to spend on the case
- The likely range of the fee if the matter's handled on a non-contingency basis
- The client's ability and willingness to pay a non-contingency fee
- The percentage of any recovery that the lawyer would receive as a contingency fee and whether that percentage is fixed or on a sliding scale (depending, for example, on whether a settlement is reached before a complaint is filed, or a trial is held or an appeal is needed)
- How expenses of the litigation will be handled.

4. You, the client, have the right to know in advance how you will need to pay the expenses and the legal fees at the end of the case. You will not be obligated to pay any fees to or expenses of the Law Offices of Linda M. Tirelli, Esq., in the event of no recovery. And you, the client, fully appreciate that there is a risk of no recovery by settlement or judgment in this case.

5. You, the client, have the right to receive and approve a closing statement at the end of the case before you pay any money. The statement must list all of the financial details of the entire case, including the amount recovered, all expenses, and a precise statement of your lawyer's fee.

6. You, the client, have the right to ask your lawyer at reasonable intervals how the case is progressing and to have these questions answered to the best of your lawyer's ability.

7. You, the client, have the right to make the final decision regarding settlement of a case.

Dated: 2/25/09

By: [Signature]

Law Offices of Linda M. Tirelli, Esq.

Dated: \_\_\_\_\_

Debtor: Sylvia N Nuer

Dated: \_\_\_\_\_

Debtor: \_\_\_\_\_



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\*The Law Offices of Linda M. Tirelli and Westchester Legal Credit Solutions, designated as a Federal Debt Relief Agency by an Act of Congress and the President of the United States, proudly assists consumers seeking relief under the US Bankruptcy Code. Attorney Linda Tirelli is a proud and active member of the NACBA, devoted to the assistance of consumer debtors.